

HOUSE BILL 1054

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CF 11r0159

By: **The Speaker (By Request – Administration) and Delegates Hucker, Barve, Braveboy, Feldman, Burns, Anderson, Barnes, Beidle, Bobo, Bromwell, Cardin, Clippinger, Conway, Frick, Frush, Gilchrist, Glenn, Hubbard, Lafferty, Lee, Luedtke, McIntosh, Mizeur, Morhaim, Nathan–Pulliam, Niemann, Reznik, S. Robinson, Stein, Tarrant, F. Turner, Vaughn, Waldstreicher, and Washington**

Introduced and read first time: February 11, 2011

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Offshore Wind Energy Act**

3 FOR the purpose of requiring the Public Service Commission to order certain electric
4 companies to enter into certain long–term power purchasing agreements with
5 certain qualifying offshore wind generators under certain circumstances;
6 providing that the Commission is responsible for approving certain contracts
7 under certain circumstances; authorizing the Commission to utilize certain
8 consultants and experts; requiring the Commission to develop a process to issue
9 a certain request for proposals and receive responses by certain dates; requiring
10 the Commission to evaluate, select, and approve certain proposals using certain
11 criteria by a certain date; prohibiting the Commission from approving certain
12 proposals under certain circumstances; requiring the Commission to order
13 certain electric companies to file certain contracts for the Commission’s
14 approval based on certain requirements by a certain date; requiring certain
15 electric companies to sell certain energy–related products into certain markets;
16 requiring that certain renewable energy credits or environmental attributes
17 from a certain contract shall be first offered to certain electricity suppliers or
18 electric companies for certain purposes; authorizing the Commission to
19 designate a certain contract administrator for certain purposes; requiring the
20 Commission to establish a certain nonbypassable charge or other mechanism to
21 ensure that certain costs or savings related to the purchase of certain energy
22 and products are shared among electric customers and distribution territories in
23 a certain manner; requiring a certain charge or mechanism to allow for the
24 recovery of certain costs of certain electric companies from certain obligations;
25 limiting the application of a certain charge or mechanism under certain
26 circumstances; exempting certain energy lines from a certain prohibition on

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 construction or installation in a beach erosion control district under certain
2 circumstances; clarifying that a certain certificate of public convenience is not
3 required for the construction of a qualified offshore wind generator except for
4 certain purposes; requiring a certificate of public convenience for certain energy
5 lines before an electric company or a person may begin constructing, installing,
6 or exercising a right of condemnation; requiring the Public Service Commission
7 to conduct certain proceedings and consider certain factors in deciding on a
8 certificate for certain energy lines; requiring the Commission to provide certain
9 notice to the Maryland Energy Administration for certain purposes; authorizing
10 the Commission to implement a special assessment not to exceed a certain
11 amount in certain fiscal years for certain purposes; defining certain terms;
12 making certain clarifying changes; making the provisions of this Act severable;
13 and generally relating to the development, procurement, and transmission of
14 offshore wind energy.

15 BY adding to

16 Article – Public Utilities
17 Section 7–801 through 7–803 to be under the new subtitle “Subtitle 8. Offshore
18 Wind Generation”
19 Annotated Code of Maryland
20 (2010 Replacement Volume)

21 BY repealing and reenacting, with amendments,

22 Article – Natural Resources
23 Section 8–1102
24 Annotated Code of Maryland
25 (2007 Replacement Volume and 2010 Supplement)

26 BY repealing and reenacting, with amendments,

27 Article – Public Utilities
28 Section 7–207 and 7–208
29 Annotated Code of Maryland
30 (2010 Replacement Volume)

31 Preamble

32 WHEREAS, The benefits of electricity generated from clean and renewable
33 energy sources accrue to the public at large, including long-term energy price
34 stability, decreased greenhouse gas emissions, a healthier environment, improved
35 public health, increased energy security, and decreased reliance on and vulnerability
36 from imported energy sources; and

37 WHEREAS, The Maryland Energy Administration has determined that offshore
38 wind power is the most effective clean energy technology that can provide the
39 quantities of renewable energy needed to meet the State’s renewable energy portfolio
40 standard; and

1 WHEREAS, Governor Martin O'Malley has requested that the federal
2 government join Maryland in the development of over one gigawatt of offshore wind
3 energy in the mid-Atlantic region, creating the economies of scale to significantly
4 reduce the cost of offshore wind energy and enhancing our energy security and fuel
5 diversity; and

6 WHEREAS, Academic studies have shown that federal waters adjacent to the
7 waters of the states bordering the Atlantic Ocean and within the PJM Interconnection
8 LLC control area have wind currents strong enough to generate more than enough
9 energy to meet the State's renewable energy portfolio standard; and

10 WHEREAS, The Public Service Commission has identified a potential shortfall
11 of electricity in the near future; and

12 WHEREAS, Offshore wind power can provide a more proximate source of
13 electricity generation and reduce the State's reliance on imported energy; now,
14 therefore,

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article – Public Utilities**

18 **SUBTITLE 8. OFFSHORE WIND GENERATION.**

19 **7-801.**

20 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
21 INDICATED.

22 (B) "INDUSTRIAL PROCESS LOAD" HAS THE MEANING STATED IN §
23 7-701 OF THIS TITLE.

24 (C) "PJM REGION" HAS THE MEANING STATED IN § 7-701 OF THIS
25 TITLE.

26 (D) "QUALIFYING OFFSHORE WIND GENERATOR" MEANS A WIND
27 ENERGY GENERATION FACILITY THAT IS:

28 (1) LOCATED IN THE ATLANTIC OCEAN;

29 (2) AT LEAST 10 NAUTICAL MILES FROM THE MARYLAND
30 SHORELINE; OR

31 (3) WITHIN THE FEDERAL WATERS ADJOINING ANOTHER STATE
32 WITHIN THE PJM REGION.

1 **(E) “RENEWABLE ENERGY CREDIT” HAS THE MEANING STATED IN §**
2 **7-701 OF THIS TITLE.**

3 **7-802.**

4 **THE PROVISIONS OF THIS SUBTITLE DO NOT APPLY TO A SMALL RURAL**
5 **ELECTRIC COOPERATIVE.**

6 **7-803.**

7 **(A) (1) THE COMMISSION BY REGULATION OR, NOTWITHSTANDING**
8 **THE PROVISIONS OF TITLE 10 OF THE STATE GOVERNMENT ARTICLE, BY**
9 **ORDER SHALL ORDER THE STATE’S FOUR INVESTOR-OWNED ELECTRIC**
10 **COMPANIES TO ENTER INTO A LONG-TERM POWER PURCHASE AGREEMENT**
11 **WITH ONE OR MORE QUALIFYING OFFSHORE WIND GENERATORS.**

12 **(2) THE COMMISSION SHALL BE RESPONSIBLE FOR APPROVING**
13 **CONTRACT AWARDS UNDER THIS SECTION.**

14 **(3) IN CARRYING OUT THIS SECTION, THE COMMISSION MAY**
15 **UTILIZE CONSULTANTS AND EXPERTS TO ASSIST THE COMMISSION.**

16 **(B) (1) IN CARRYING OUT THE PROVISIONS OF SUBSECTION (A) OF**
17 **THIS SECTION, THE COMMISSION SHALL BY REGULATION OR,**
18 **NOTWITHSTANDING THE PROVISIONS OF TITLE 10 OF THE STATE GOVERNMENT**
19 **ARTICLE, BY ORDER DEVELOP A PROCESS FOR DRAFTING AND ISSUING A**
20 **REQUEST FOR PROPOSALS (RFP).**

21 **(2) A SINGLE RFP SHALL BE ISSUED TO QUALIFYING OFFSHORE**
22 **WIND GENERATORS ON BEHALF OF THE FOUR INVESTOR-OWNED ELECTRIC**
23 **COMPANIES.**

24 **(3) QUALIFYING PROPOSALS SHALL BE FOR CONTRACTS TO SELL:**

25 **(I) ENERGY AND ASSOCIATED CAPACITY RESULTING FROM**
26 **A TOTAL NAMEPLATE CAPACITY OF BETWEEN 400 AND 600 MEGAWATTS FOR A**
27 **TERM OF NOT LESS THAN 20 YEARS;**

28 **(II) ANCILLARY SERVICES, IF APPLICABLE;**

29 **(III) ASSOCIATED RENEWABLE ENERGY CREDITS; AND**

1 (IV) ALL ASSOCIATED ENVIRONMENTAL ATTRIBUTES, IF
2 APPLICABLE.

3 (4) (I) THE COMMISSION SHALL ISSUE THE RFP ON OR
4 BEFORE JANUARY 31, 2012.

5 (II) RESPONSES TO THE RFP SHALL BE DUE ON OR BEFORE
6 MARCH 31, 2012.

7 (C) (1) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, ON OR
8 BEFORE DECEMBER 31, 2012, THE COMMISSION SHALL EVALUATE, SELECT,
9 AND APPROVE A PROPOSAL OR PROPOSALS BASED ON THE CRITERIA LISTED
10 UNDER PARAGRAPH (2) OF THIS SUBSECTION.

11 (2) THE COMMISSION SHALL USE THE FOLLOWING CRITERIA TO
12 EVALUATE PROPOSALS:

13 (I) LOWEST COST IMPACT OVER THE TERM OF THE POWER
14 PURCHASE AGREEMENT ON RATEPAYERS;

15 (II) PRICE STABILITY OVER THE TERM OF THE POWER
16 PURCHASE AGREEMENT;

17 (III) LONG-TERM RELIABILITY OF MARYLAND'S ELECTRIC
18 SUPPLY;

19 (IV) POTENTIAL REDUCTIONS IN TRANSMISSION
20 CONGESTION WITHIN MARYLAND;

21 (V) POTENTIAL REDUCTIONS IN CAPACITY PRICES WITHIN
22 MARYLAND;

23 (VI) POTENTIAL REDUCTIONS IN LOCATIONAL MARGINAL
24 PRICES WITHIN MARYLAND;

25 (VII) ENVIRONMENTAL, CLIMATE, AND HEALTH BENEFITS TO
26 THE CITIZENS OF THE STATE;

27 (VIII) ESTIMATED ABILITY TO ASSIST IN MEETING THE
28 STATE'S RENEWABLE ENERGY PORTFOLIO STANDARD GOALS;

29 (IX) SITING AND PROJECT FEASIBILITY; AND

1 **(X) ANY OTHER CRITERIA THAT ARE CONSISTENT WITH THE**
2 **INTENT OF THIS SUBTITLE THAT THE COMMISSION DEEMS APPROPRIATE.**

3 **(3) NOTWITHSTANDING SUBSECTION (A)(1) OF THIS SECTION, IF**
4 **THE COMMISSION DETERMINES AFTER REVIEWING THE PROPOSALS RECEIVED**
5 **UNDER THE RFP THAT THE PROPOSALS ARE NOT COMPARABLE TO OTHER**
6 **OFFSHORE WIND PROJECTS, THE COMMISSION MAY NOT APPROVE A PROPOSAL.**

7 **(D) (1) EXCEPT AS PROVIDED UNDER SUBSECTION (C)(3) OF THIS**
8 **SECTION, THE COMMISSION SHALL ORDER EACH INVESTOR-OWNED ELECTRIC**
9 **COMPANY IN THE STATE TO FILE WITH THE COMMISSION A SUBSTANTIALLY**
10 **SIMILAR PROPOSED CONTRACT WITH THE SELECTED AWARDEE OR AWARDEES**
11 **OF THE RFP FOR THE COMMISSION'S APPROVAL, WITH THE ONLY VARIABLE**
12 **BEING THE AMOUNT OF OUTPUT EACH COMPANY IS OBLIGATED TO PURCHASE.**

13 **(2) EACH INVESTOR-OWNED ELECTRIC COMPANY'S SHARE OF**
14 **THE OUTPUT FROM THE PROPOSED CONTRACT SHALL BE ESTABLISHED AT THE**
15 **TIME OF THE SIGNING OF THE CONTRACT AND WILL BE PROPORTIONAL TO THAT**
16 **COMPANY'S AVERAGE MEGAWATT-HOUR LOAD FOR THE PRECEDING YEAR**
17 **DIVIDED BY THE AVERAGE MEGAWATT-HOUR LOAD FOR THE PRECEDING YEAR**
18 **OF ALL OF THE INVESTOR-OWNED ELECTRIC COMPANIES IN THE STATE.**

19 **(3) THE INVESTOR-OWNED ELECTRIC COMPANIES SHALL FILE**
20 **THE CONTRACTS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION BY**
21 **MARCH 31, 2013.**

22 **(4) CONTRACTS REQUIRED UNDER THIS SUBSECTION SHALL**
23 **INCORPORATE THE TERMS AND CONDITIONS APPROVED BY THE COMMISSION.**

24 **(E) SUBJECT TO SUBSECTIONS (F) AND (G) OF THIS SECTION, AS**
25 **DIRECTED BY THE COMMISSION, THE INVESTOR-OWNED ELECTRIC COMPANIES**
26 **THAT ENTER INTO A CONTRACT UNDER SUBSECTION (D) OF THIS SECTION**
27 **SHALL SELL INTO THE AVAILABLE MARKETS THE FOLLOWING PRODUCTS**
28 **PURCHASED UNDER THE CONTRACT:**

29 **(1) ENERGY AND ASSOCIATED CAPACITY;**

30 **(2) ANCILLARY SERVICES, IF APPLICABLE;**

31 **(3) ASSOCIATED RENEWABLE ENERGY CREDITS; AND**

32 **(4) ALL ASSOCIATED ENVIRONMENTAL ATTRIBUTES.**

1 **(F) THE RENEWABLE ENERGY CREDITS OR ENVIRONMENTAL**
2 **ATTRIBUTES FROM THE CONTRACT MUST FIRST BE OFFERED TO AN**
3 **ELECTRICITY SUPPLIER OR ELECTRIC COMPANY THAT SHALL APPLY THEM**
4 **TOWARD COMPLIANCE WITH THE RENEWABLE ENERGY PORTFOLIO STANDARD**
5 **UNDER § 7-703 OF THIS TITLE.**

6 **(G) THE COMMISSION MAY DESIGNATE A CONTRACT ADMINISTRATOR**
7 **FOR THE PURPOSE OF ADMINISTERING:**

8 **(1) CONTRACTS UNDER SUBSECTION (D) OF THIS SECTION; OR**

9 **(2) SALES OF PRODUCTS UNDER SUBSECTION (E) OF THIS**
10 **SECTION.**

11 **(H) (1) EXCEPT AS PROVIDED IN § 7-802 OF THIS SUBTITLE AND**
12 **SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THE COMMISSION**
13 **SHALL ESTABLISH A NONBYPASSABLE CHARGE OR OTHER MECHANISM TO**
14 **ENSURE THAT ANY COSTS OR SAVINGS ASSOCIATED WITH THE OBLIGATION TO**
15 **PURCHASE ENERGY AND OTHER PRODUCTS FROM A QUALIFYING OFFSHORE**
16 **WIND GENERATOR AND TO SELL THE PRODUCTS ARE SHARED EQUITABLY**
17 **AMONG ALL CUSTOMERS AND ACROSS ALL DISTRIBUTION TERRITORIES.**

18 **(2) THE NONBYPASSABLE CHARGE OR OTHER MECHANISM**
19 **DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL ALLOW FOR THE**
20 **FULL AND TIMELY RECOVERY OF ALL OF THE INVESTOR-OWNED ELECTRIC**
21 **COMPANY'S COSTS ARISING FROM ITS OBLIGATIONS UNDER THIS SECTION,**
22 **INCLUDING ANY COSTS, AS APPROVED BY THE COMMISSION, DIRECTLY**
23 **INCURRED BY THE ELECTRIC COMPANY.**

24 **(3) A NONBYPASSABLE CHARGE OR OTHER MECHANISM UNDER**
25 **THIS SUBSECTION MAY NOT APPLY TO ELECTRICITY SALES AT RETAIL BY ANY**
26 **ELECTRICITY SUPPLIER IN EXCESS OF 75,000,000 KILOWATT-HOURS OF**
27 **INDUSTRIAL PROCESS LOAD TO A SINGLE CUSTOMER IN A YEAR.**

28 **Article – Natural Resources**

29 8-1102.

30 **(a) (1) [For] EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPHS (2)**
31 **AND (3) OF THIS SUBSECTION, FOR the purposes of maintaining the Atlantic Coast**
32 **beaches of the State and the Beach Erosion Control District, the integrity and**
33 **continuity of the dunal system and assuring adequate maintenance of the beaches,**
34 **Beach Erosion Control District, and dunal system, to provide for shore erosion and**
35 **sediment control and storm protection, and to minimize structural interference with**
36 **the littoral drift of sand and any anchoring vegetation, any land clearing, construction**

1 activity, or the construction or placement of permanent structures within the Beach
2 Erosion Control District is prohibited.

3 (2) This prohibition does not apply to any project or activity approved
4 by the Department and the appropriate soil conservation district specifically for storm
5 control; beach erosion and sediment control; maintenance projects designed to benefit
6 the Beach Erosion Control District; the widening of the boardwalk in Ocean City up to
7 an additional 40 feet to the east between South Second Street and the south side of
8 Worcester Street and from the south side of Somerset Street to the southerly terminus
9 of the steel and concrete bulkhead at 4th Street, and an additional 80 feet to the east
10 between the south side of Worcester Street and the south side of Somerset Street to
11 include associated appurtenances and construction of one restroom facility in an
12 easterly direction between South Second Street and the southerly terminus of the steel
13 and concrete bulkhead at 4th Street for the purpose of public health, safety, and
14 welfare; and a planned public utility pipeline carrying treated sewage effluent from a
15 unit not exceeding 14 million gallons per day, if, in addition to the approvals required
16 by all other applicable federal and local laws and regulations, it is approved by the
17 Board of Public Works as essential to the public health, safety, and welfare of the
18 citizens of Worcester County, after having received the permission of the Secretaries of
19 the Environment and Natural Resources, and the Director of Planning, including a
20 guarantee that in any contract under this provision a person will not make any
21 significant permanent environmental disruption to the area, and the construction area
22 for the purpose of laying a single pipe with a diameter not exceeding 36 inches is
23 limited to a single 100 foot wide area perpendicular eastward from the west crest of
24 the natural dune line on Assateague Island and in Ocean City, and if the Secretaries
25 of the Environment and Natural Resources and the Director of Planning find that
26 there is no economically and environmentally feasible alternative, and that there is
27 insufficient capacity at the existing Ocean City wastewater treatment facility and
28 discharge pipe.

29 **(3) (I) THIS PROHIBITION DOES NOT APPLY TO THE**
30 **CONSTRUCTION AND INSTALLATION OF A QUALIFIED SUBMERGED RENEWABLE**
31 **ENERGY LINE, AS DEFINED IN TITLE 7, SUBTITLE 2 OF THE PUBLIC UTILITIES**
32 **ARTICLE, IF THE PROJECT DOES NOT RESULT IN ANY SIGNIFICANT PERMANENT**
33 **ENVIRONMENTAL DAMAGE TO THE BEACH EROSION CONTROL DISTRICT, AS**
34 **DETERMINED BY THE DEPARTMENT.**

35 **(II) AN APPLICATION FOR A CERTIFICATE OF PUBLIC**
36 **CONVENIENCE AND NECESSITY TO CONSTRUCT A QUALIFIED SUBMERGED**
37 **RENEWABLE ENERGY LINE, AS DEFINED IN TITLE 7, SUBTITLE 2 OF THE PUBLIC**
38 **UTILITIES ARTICLE, IS SUBJECT TO REVIEW BY THE DEPARTMENT AND THE**
39 **DEPARTMENT OF THE ENVIRONMENT, AS PROVIDED IN § 3-306 OF THIS**
40 **ARTICLE.**

41 (b) The Secretary of the Environment, the Secretary of Natural Resources,
42 and the Director of Planning, with the approval of the Board of Public Works, shall

1 jointly adopt regulations in accordance with Title 10, Subtitle 1 of the State
2 Government Article for the purpose of implementing the provisions of this section.

3 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
4 read as follows:

5 **Article – Public Utilities**

6 7–207.

7 (a) (1) In this section and § 7–208 of this subtitle[, “construction”] **THE**
8 **FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

9 (2) (I) **“CONSTRUCTION”** means:

10 [(i)] 1. any physical change at a site, including fabrication,
11 erection, installation, or demolition; or

12 [(ii)] 2. the entry into a binding agreement or contractual
13 obligation to purchase equipment exclusively for use in construction in the State or to
14 undertake a program of actual construction in the State which cannot be canceled or
15 modified without substantial loss to the owner or operator of the proposed generating
16 station.

17 [(2)] (II) “Construction” does not include a change that is needed for
18 the temporary use of a site or route for nonutility purposes or for use in securing
19 geological data, including any boring that is necessary to ascertain foundation
20 conditions.

21 (3) **“QUALIFIED GENERATOR LEAD LINE” MEANS AN OVERHEAD**
22 **TRANSMISSION LINE THAT IS DESIGNED TO CARRY A VOLTAGE IN EXCESS OF**
23 **69,000 VOLTS AND WOULD ALLOW AN OUT-OF-STATE TIER 1 RENEWABLE**
24 **SOURCE OR TIER 2 RENEWABLE SOURCE, AS DEFINED IN § 7–701 OF THIS TITLE,**
25 **TO INTERCONNECT IN MARYLAND TO THE ELECTRIC SYSTEM.**

26 (4) **“QUALIFIED SUBMERGED RENEWABLE ENERGY LINE” MEANS**
27 **A LINE:**

28 (I) **CARRYING ELECTRICITY AND CONNECTING A**
29 **QUALIFYING OFFSHORE WIND GENERATOR TO THE TRANSMISSION SYSTEM; AND**

30 (II) **IN WHICH THE PORTIONS OF THE LINE CROSSING ANY**
31 **SUBMERGED LANDS OR ANY PART OF A BEACH EROSION CONTROL DISTRICT**
32 **ARE BURIED OR SUBMERGED.**

1 **(5) “QUALIFYING OFFSHORE WIND GENERATOR” HAS THE**
2 **MEANING STATED IN § 7-801 OF THIS TITLE.**

3 (b) (1) (i) Unless a certificate of public convenience and necessity for
4 the construction is first obtained from the Commission, a person may not begin
5 construction in the State of a generating station **OR QUALIFIED GENERATOR LEAD**
6 **LINE.**

7 (ii) If a person obtains Commission approval for construction
8 under § 7-207.1 of this subtitle, the Commission shall exempt a person from the
9 requirement to obtain a certificate of public convenience and necessity under this
10 section.

11 **(III) A CERTIFICATE OF PUBLIC CONVENIENCE AND**
12 **NECESSITY IS NOT REQUIRED FOR CONSTRUCTION OF A QUALIFYING OFFSHORE**
13 **WIND GENERATOR EXCEPT AS NECESSARY TO CONSTRUCT A QUALIFIED**
14 **SUBMERGED RENEWABLE ENERGY LINE.**

15 (2) Unless a certificate of public convenience and necessity for the
16 construction is first obtained from the Commission, and the Commission has found
17 that the capacity is necessary to ensure a sufficient supply of electricity to customers
18 in the State, a person may not exercise a right of condemnation in connection with the
19 construction of [a] **AN ONSHORE** generating station.

20 (3) Unless a certificate of public convenience and necessity for the
21 construction is first obtained from the Commission, an electric company **OR A PERSON**
22 may not begin construction of an overhead transmission line that is designed to carry
23 a voltage in excess of 69,000 volts or exercise a right of condemnation with the
24 construction.

25 **(4) UNLESS A CERTIFICATE OF PUBLIC CONVENIENCE AND**
26 **NECESSITY IS FIRST OBTAINED FROM THE COMMISSION, AN ELECTRIC**
27 **COMPANY OR A PERSON INTENDING TO TRANSMIT ENERGY FROM A QUALIFYING**
28 **OFFSHORE WIND GENERATOR MAY NOT BEGIN CONSTRUCTION OR**
29 **INSTALLATION OF A QUALIFIED SUBMERGED RENEWABLE ENERGY LINE OR**
30 **EXERCISE A RIGHT OF CONDEMNATION IN CONNECTION WITH THE**
31 **CONSTRUCTION.**

32 (c) (1) On receipt of an application for a certificate of public convenience
33 and necessity under this section, the Commission shall provide notice to the
34 Department of Planning and to all other interested persons.

35 (2) The Department of Planning shall forward the application to each
36 appropriate State unit and unit of local government for review, evaluation, and
37 comment regarding the significance of the proposal to State, area-wide, and local
38 plans or programs.

1 (d) (1) The Commission shall provide an opportunity for public comment
2 and hold a public hearing on the application for a certificate of public convenience and
3 necessity in each county and municipal corporation in which any portion of the
4 construction of a generating station [or of], an overhead transmission line designed to
5 carry a voltage in excess of 69,000 volts, **A QUALIFIED GENERATOR LEAD LINE, OR**
6 **A QUALIFIED SUBMERGED RENEWABLE ENERGY LINE** is proposed to be located.

7 (2) The Commission shall hold the public hearing jointly with the
8 governing body of the county or municipal corporation in which any portion of the
9 construction of the generating station [or], overhead transmission line, **QUALIFIED**
10 **GENERATOR LEAD LINE, OR QUALIFIED SUBMERGED RENEWABLE ENERGY LINE**
11 is proposed to be located, unless the governing body declines to participate in the
12 hearing.

13 (3) Once in each of the 4 successive weeks immediately before the
14 hearing date, the Commission shall provide weekly notice of the public hearing and an
15 opportunity for public comment by advertisement in a newspaper of general
16 circulation in the county or municipal corporation affected by the application.

17 (4) (i) The Commission shall ensure presentation and
18 recommendations from each interested State unit, and shall allow representatives of
19 each State unit to sit during hearing of all parties.

20 (ii) The Commission shall allow each State unit 15 days after
21 the conclusion of the hearing to modify the State unit's initial recommendations.

22 (e) The Commission shall take final action on an application for a certificate
23 of public convenience and necessity only after due consideration of:

24 (1) the recommendation of the governing body of each county or
25 municipal corporation in which any portion of the construction of the generating
26 station or overhead transmission line, **QUALIFIED GENERATOR LEAD LINE, OR**
27 **QUALIFIED SUBMERGED RENEWABLE ENERGY LINE** is proposed to be located; and

28 (2) the effect of the generating station [or], overhead transmission
29 line, **QUALIFIED GENERATOR LEAD LINE, OR QUALIFIED SUBMERGED**
30 **RENEWABLE ENERGY LINE** on:

31 (i) the stability and reliability of the electric system;

32 (ii) economics;

33 (iii) esthetics;

34 (iv) historic sites;

1 (v) **WHERE APPLICABLE**, aviation safety as determined by the
2 Maryland Aviation Administration and the administrator of the Federal Aviation
3 Administration;

4 (vi) when applicable, air and water pollution; and

5 (vii) the availability of means for the required timely disposal of
6 wastes produced by any generating station.

7 (f) For the construction of an overhead transmission line, in addition to the
8 considerations listed in subsection (e) of this section, the Commission shall take final
9 action on an application for a certificate of public convenience and necessity only after
10 due consideration of the need to meet existing and future demand for electric service.

11 (g) (1) The Commission may not authorize, and an electric company may
12 not undertake, the construction of an overhead transmission line that is aligned with
13 and within 1 mile of either end of a public airport runway, unless:

14 (i) the Federal Aviation Administration determines that the
15 construction of an overhead transmission line will not constitute a hazard to air
16 navigation; and

17 (ii) the Maryland Aviation Administration concurs in that
18 determination.

19 (2) A privately owned airport runway shall qualify as a public airport
20 runway under this subsection only if the runway has been on file with the Federal
21 Aviation Administration for at least 2 years as being open to the public without
22 restriction.

23 (h) The Commission shall consider and take final action on an application for
24 a certificate of public convenience and necessity in an expeditious manner if the
25 application is for the construction of a generating station:

26 (1) that is designed to provide electricity for a single electric customer
27 that uses at least 1,500,000,000 kilowatt hours of electricity each year; and

28 (2) with a generating capacity that does not exceed 750 megawatts.

29 7-208.

30 (a) This section applies to any person:

31 (1) constructing a generating station and its associated overhead
32 transmission lines designed to carry a voltage in excess of 69,000 volts; [or]

1 (2) exercising the right of condemnation in connection with the
2 construction;

3 **(3) CONSTRUCTING A QUALIFIED GENERATOR LEAD LINE; OR**

4 **(4) CONSTRUCTING A QUALIFIED SUBMERGED RENEWABLE**
5 **ENERGY LINE.**

6 (b) (1) To obtain the certificate of public convenience and necessity
7 required under § 7–207 of this subtitle for construction under this section, a person
8 shall file an application with the Commission at least 2 years before construction of
9 the facility will commence.

10 (2) The Commission may waive the 2–year requirement on a showing
11 of good cause.

12 (c) The applicant shall:

13 (1) include in an application under this section the information that
14 the Commission requests initially; and

15 (2) furnish any additional information that the Commission requests
16 subsequently.

17 (d) (1) On the receipt of an application under this section, together with
18 any additional information requested under subsection (c)(2) of this section, the
19 Commission shall provide notice to:

20 (i) all interested persons;

21 (ii) the Department of Agriculture;

22 (iii) the Department of Business and Economic Development;

23 (iv) the Department of the Environment;

24 (v) the Department of Natural Resources;

25 (vi) the Department of Transportation; [and]

26 (vii) the Department of Planning; **AND**

27 **(VIII) THE MARYLAND ENERGY ADMINISTRATION.**

28 (2) The Commission shall hold a public hearing on the application as
29 required by § 7–207 of this subtitle, after:

1 (i) the receipt of any additional information requested under
2 subsection (c)(2) of this section that the Commission considers necessary; and

3 (ii) any publication of notice the Commission considers to be
4 proper.

5 (3) (i) At the public hearing, the Commission shall ensure
6 presentation of the information and recommendations of the State units specified in
7 paragraph (1) of this subsection and shall allow the official representative of each unit
8 to sit during hearing of all parties.

9 (ii) Based on the evidence relating to the unit's areas of concern,
10 the Commission shall allow each unit 15 days after the conclusion of the hearing to
11 modify or affirm the unit's initial recommendations.

12 (e) Within 90 days after the conclusion of the hearing on an application
13 under this section, the Commission shall:

14 (1) (i) grant a certificate of public convenience and necessity
15 unconditionally;

16 (ii) grant the certificate, subject to conditions the Commission
17 determines to be appropriate; or

18 (iii) deny the certificate; and

19 (2) notify all interested parties of its decision.

20 (f) (1) The Commission shall include in each certificate it issues under
21 subsection (e) of this section:

22 (i) the requirements of the federal and State environmental
23 laws and standards that are identified by the Department of the Environment; and

24 (ii) the methods and conditions that the Commission determines
25 are appropriate to comply with those environmental laws and standards.

26 (2) The Commission may not adopt any method or condition under
27 paragraph (1)(ii) of this subsection that the Department of the Environment
28 determines is inconsistent with federal and State environmental laws and standards.

29 (g) (1) A decision of the Commission regarding the issuance of a
30 certificate requires the vote of a majority of the members of the Commission.

31 (2) If a majority of the members of the Commission fails to reach
32 agreement on the conditions to be attached to a conditional certificate, the certificate
33 shall be denied.

1 (h) The grant of a certificate by the Commission to any person under
2 subsection (e) of this section constitutes:

3 (1) authority for the person to dredge and construct bulkheads in the
4 waters or private wetlands of the State and to appropriate or use the waters; and

5 (2) registration and a permit to construct, as required under Title 2,
6 Subtitle 4 of the Environment Article.

7 SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding any
8 other provision of law, for fiscal years 2011 through 2013 only, the Public Service
9 Commission may implement a special assessment using the assessment process
10 authorized under § 2–110 of the Public Utilities Article in order to employ consultants
11 and experts as necessary to carry out the provisions of Title 7, Subtitle 8 of the Public
12 Utilities Article, as enacted by this Act. The cumulative special assessment may not
13 exceed \$3,000,000, provided that:

14 (1) the assessment shall be imposed only on those electric companies
15 and electricity suppliers otherwise subject to the assessment under § 2–110 of the
16 Public Utilities Article; and

17 (2) the limit imposed under § 2–110(c)(12) of the Public Utilities
18 Article does not apply to any assessment made under this section.

19 SECTION 4. AND BE IT FURTHER ENACTED, That if any provision of this
20 Act or the application thereof to any person or circumstance is held invalid for any
21 reason in a court of competent jurisdiction, the invalidity does not affect other
22 provisions or any other application of this Act which can be given effect without the
23 invalid provision or application, and for this purpose the provisions of this Act are
24 declared severable.

25 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 June 1, 2011.